

LAW OFFICES

FRINGS, BAGLEY, ATHERTON & CLARK

FRINGS BUILDING - 6 SOUTH FOURTH STREET

P.O. BOX 669

PEKIN, ILLINOIS 61554

309-346-2161

EPA Region 5 Records Ctr.



303279

J. R. BAGLEY  
THOMAS M. ATHERTON  
E. WAYNE CLARK

C. V. FRINGS (1906-1977)  
R. A. MILFORD (1914-1963)  
B. F. HOFFMAN (1912-1972)

April 23, 1980

Mr. Ronald L. Keyser  
Elliff, Keyser & Hallberg  
Fourth & Broadway Streets  
Pekin, Illinois 61554

Re: Frank Rosenberg, Inc.  
vs. City of Pekin  
Case No. 75-L-1882

Dear Ron:

As you know, our firm has represented Frank Rosenberg, Inc. on a number of matters over the years. We have not represented Frank Rosenberg, Inc. in its litigation with the City of Pekin, nor do we expect to. However, since Cassidy, Cassidy & Mueller no longer represent Frank Rosenberg, Inc. by mutual agreement, we are, at the direction of the corporation, writing you this letter.

There may be some misunderstandings concerning the permissibility of agents of the City of Pekin entering upon the Rosenberg property in order to comply with certain court orders. It is the position of Frank Rosenberg, Inc. that the Lease dated February 22, 1965 is still in full force and effect and therefore the City, and its agents, have every right to enter upon the premises. Any refusal of the City to comply with the court order is therefore a decision made by the City and not compelled by Frank Rosenberg, Inc.

Frank Rosenberg, Inc. will be retaining counsel to represent in this matter and the new counsel will be contacting you in the near future.

Very truly yours,

Thomas M. Atherton

A: jv  
Mrs. Judith S. Goodie  
Certified mail #960076,  
Return receipt requested.

FOR PRIVATE  
AND PAYMENT  
STAGE, \$300

Vertical stamp on the left edge of the page, partially obscured by a hole punch. The text is mostly illegible but appears to contain administrative markings.

L E A S E

THIS AGREEMENT made and entered into this 2nd day of February, A.D. 1965, by and between FRANK ROSENBERG, INC., an Illinois corporation, Party of the First Part, and the CITY OF PEKIN, Tazewell County Illinois, a municipal corporation, Party of the Second Part, WITNESSETH:

I

That said Party of the First Part does hereby lease and let to Party of the Second Part for and in consideration of the sum of One Dollar (\$1.00) per year during the term of this lease, the following described real estate, to-wit:

A part of the southeast quarter of Section 9 in Township 24 North, Range 5 West of the Third Principal Meridian, more fully described as follows: From the northeast corner of the southeast quarter of said Section 9 thence west 33 feet to the west right-of-way line of State Highway No. 29 (South Second St.), thence south along said west right-of-way line for a distance of 2,117.7 feet, thence west and parallel with the north line of said southeast quarter of said Section 9 for a distance of 366 feet to the place of beginning of the tract herein described, thence north and parallel with said State Highway No. 29 for a distance of 650 feet, thence N30°00' W for a distance of 1200 feet, thence west and parallel with the north line of said southeast quarter of said Section 9 for a distance of 520 feet, more or less, to the easterly right-of-way line of the C. & N. W. Ry., thence south easterly along said easterly right-of-way line for a distance of 1930 feet, more or less, to the southwest corner of the tract now owned by the grantor herein, thence East and parallel with the north line of said southeast quarter of said Section 9 for a distance of 479.6 feet to the place of beginning and also an access strip 50 feet in width, between the tract hereinabove described and said State Highway No. 29 lying immediately north of and along the 3-acre parcel previously conveyed by the grantor herein to The Pekin Farmers' Grain Co., being in all 25 acres, more or less, all lying in the southeast quarter of Section 9, Township 24 North, Range Five West of the Third Principal Meridian, Tazewell County Illinois, as shown on plat, hereto attached.

EXHIBIT "A"

lease herein given be and is hereby given to said city for the purpose of using the same in a land fill operation for disposal of waste matters by the Sanitation Department and/or other departments of said city, Party of the Second Part, and said lease shall continue from the date hereof until said lands hereinabove described are filled under a proper land fill operation to the general level of the lands surrounding said above described leased premises, but in any event, no longer than thirty years.

II

It is further understood and agreed that the said Party of the Second Part will commence said land fill operation on the premises leased within twelve months of the date hereof and will diligently continue said land fill operation until said area has been filled as above provided.

III

It is understood and agreed, however, that in the event the City of Tokin, Party of the Second Part, should, during the term of this lease, cease the operation of garbage and waste disposal, that then this lease shall terminate without further obligation on Party of the Second Part and a formal release of the lease will be issued by the city, Party of the Second Part.

IV

It is further understood and agreed that Party of the First Part shall furnish a reasonable means of access to the said land herein leased for use by the said Party of the Second Part but that Party of the Second Part shall have the responsibility of maintenance of any such access roads at the cost of Party of the Second Part.

V

It is further understood and agreed that said land fill operation

will commence at the southerly end of said tract leased and shall progress in a northerly direction until said lands are filled.

#### VI

It is further understood and agreed that as the said land fill operation is completed on the southerly end of said project that said land upon which the land fill operation is completed will be released to Party of the First Part from time to time, retaining a sufficient amount of ground at the northerly end of said completed operation to protect the continuance of said land fill operation by Party of the Second Part.

#### VII

It is further understood and agreed that Party of the Second Part will hold Party of the First Part harmless from any and all liability of any kind which may or might occur during the operation of this said lease by reason of the land fill operation and carried on by Party of the Second Part on said leased premises.

#### VIII

It is further understood and agreed that if at any time Party of the First Part shall require a railroad siding across any of the premises herein leased that such lands that are necessary for said siding will be released by Party of the Second Part for said purpose and it is understood and agreed that if the placement of said siding shall make said lands leased impractical for use by Party of the Second Part in its land fill operation, then Party of the Second Part shall, at its option, have the right to cancel this said lease.

#### IX

It is further understood and agreed that one Henry Cakona holds an option for purchase on five acres of ground lying westerly of the

land now owned by him upon which his foundry is located, and it is understood that if any of said five acre tract intrudes upon the lands herein leased that this lease is subject to said option.

X

It is further understood and agreed that this Lease is subject to all existing easements.

XI

In the event the City of Pekin should terminate this Lease provided for in Paragraph III, it agrees to level out any piles of dirt or material that may have been created in anticipation of the continuance of the land fill operation.

XII

The City of Pekin, Party of Second Part, agrees that during the term of this Lease, it will keep under reasonable control all rats and other vermin problems that are usually connected with a City Dump.

XIII

It is mutually agreed between the Parties hereto that in the event Party of the First Part does have an offer for the purchase of all or part of the 25 acres included in this Lease, Party of the First Part shall have the right to cancel this Lease upon giving Party of the Second Part one year written notice and paying to the Party of the Second Part any expense incurred in preparing land unused at that time of cancellation, together with any expense incurred in closing the area to future land fill operation, but shall not be required to reimburse the City for any expense incurred in securing or developing any new garbage land fill area which may be selected by Parties of the Second Part to take the place of the

area hereby removed by cancellation of this Lease. It is further agreed that Party of the First Part shall not be required to pay any damages to the City of Pekin for the loss of this area.

IN WITNESS WHEREOF, the parties hereto have hereto affixed their hands and seals the day and year first hereinabove written.

FRANK ROSENBERG, INC., an Illinois Corporation,

Corporate Seal

ATTEST:

*[Signature]*  
Secretary

By: *[Signature]*  
President

PARTY OF THE FIRST PART.

CITY OF PEKIN, Tazewell County, Illinois, a Municipal Corporation,

Corporate Seal

ATTEST:

*[Signature]*  
City Clerk

By: *[Signature]*  
Mayor



IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT OF ILLINOIS  
TAZEWELL COUNTY

FRANK ROSENBERG INC.,  
an Illinois Corporation,

Plaintiff,

vs

CITY OF PEKIN, a  
Municipal Corporation,

Defendant.

NO. 15-1-1882

**FILED**  
OCT 23 1975

NOTICE OF INJURY

*[Signature]*  
CITY CLERK  
CITY OF PEKIN, ILLINOIS

TO: City Clerk, City of Pekin

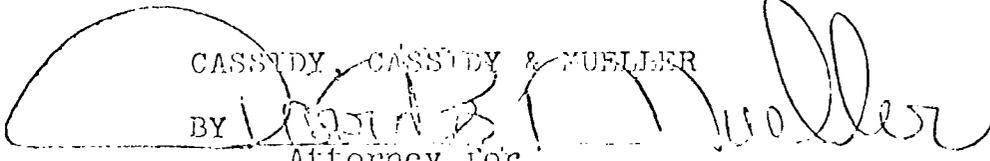
Please be informed that FRANK ROSENBERG, INC., an Illinois Corporation, 332 S. 4th Street, Pekin, Illinois 61554 has a claim against the City of Pekin with respect to trespasses to the following described premises and adjoining lands owned by it:

A part of the southeast quarter of Section 9 in Township 24 North, Range 5 West of the Third Principal Meridian, more fully described as follows: From the northeast corner of the southeast quarter of said Section 9 thence west 33 feet to the west right-of-way line of State Highway No. 29 (South Second St.), thence south along said west right-of-way line for a distance of 2,117.7 feet, thence west and parallel with the north line of said southeast quarter of said Section 9 for a distance of 260 feet to the place of beginning of the tract herein described, thence north and parallel with said State Highway No. 29 for a distance of 650 feet, thence N30°00'W for a distance of 1200 feet, thence west and parallel with the north line of said southeast quarter of said Section 9 for a distance of 530 feet, more or less, to the easterly right-of-way line of the C. & N. W. Ry., thence south easterly along said easterly right-of-way line for a distance of 1820 feet, more or less, to the southwest corner of the tract now owned by the grantor herein, thence East and parallel with the north line of said southeast quarter of said Section 9 for a distance of 479.6 feet to the place of beginning and also an access strip 50 feet in width, between the tract hereinabove described and said State Highway No. 29 lying immediately north of and along the 2-acre parcel previously conveyed by the grantor herein to The Pekin Farmers' Grain Co., being in all 25 acres, more

or less, all lying in the southeast quarter of Section 9, Township 24 North, Range Five West of the Third Principle Meridian, Tazewell County Illinois, as shown on plat, hereto attached.

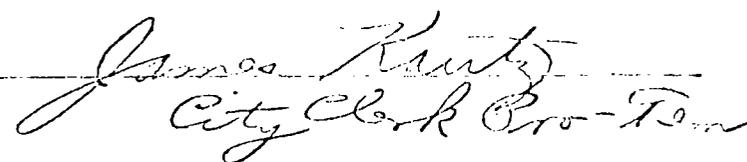
With respect to the trespasses upon the above described premises the cause of action accrued on or about July 23, 1975 and with respect to the trespasses of defendant upon adjoining property the claim accrued on or about April 15, 1975. The former trespasses relate to entries upon the foregoing premises by the CITY OF PEKIN for the purpose of conducting a land fill operation which was improper in that it did not conform with applicable health and safety standards and regulations. The latter trespasses occurred when the CITY OF PEKIN took and expropriated fill dirt and materials from plaintiff's adjoining lands for use in the land fill operation.

CASSIDY, CASSIDY & MUELLER

BY   
Attorney for  
FRANK ROSENBERG, INC.

Personally served upon Clerk of the CITY OF PEKIN this

23rd day of October, 1975.

  
City Clerk Pro-Tem

CASSIDY, CASSIDY & MUELLER  
800 Lehmann Building  
Peoria, Illinois 61602  
Telephone: 675-0591